# Income Tax (Trading and Other Income) Act 2005

**2005 CHAPTER 5**

**PART 3**

PROPERTY INCOME

**CHAPTER 4**

PROFITS OF PROPERTY BUSINESSES: LEASE PREMIUMS ETC.

*Additional calculation rule for reducing certain receipts*

**287 Circumstances in which additional calculation rule applies**

(1) The rule in section 288 (the additional calculation rule) applies in relation to the calculation of receipts under—

section 277 (lease premiums),
section 279 (sums payable instead of rent),
section 280 (sums payable for surrender of lease),
section 281 (sums payable for variation or waiver of **[**[F1]terms**]** of lease), or
section 282 (assignments for profit of lease granted at undervalue).

(2) It applies if conditions A and B are met.

(3) Condition A is that—

(a) in the case of a receipt under section 277, 279 or 280, the lease is granted out of a taxed lease,

(b) in the case of a receipt under section 281, the lease was granted out of a taxed lease, and

(c) in the case of a receipt under section 282, the assignment is of a taxed lease.

(4) A lease is a "taxed lease" for the purposes of this Chapter if—

(a) there is a receipt under any of sections 277 to 282 in respect of the lease, [F2]...

(b) there would be such a receipt, but for the operation of the **[**[F3]rule in section 288 (the additional calculation rule)**]** in the calculation of its amount.

**[**[F4](c) there is a receipt under any of sections 217 to 222 of CTA 2009 (receipts in respect of lease premiums, sums payable instead of rent, for surrender of lease and for variation or waiver of terms of lease and assignments) in respect of the lease, or

(d) there would be such a receipt, but for the operation of the rule in section 228 of that Act (the additional calculation rule) in the calculation of its amount.**]**

In this Chapter **[**[F5]a receipt falling within paragraph (a), (b), (c) or (d)**]** is referred to as a "taxed receipt".

(5) Condition B is that the taxed receipt, or if there is more than one, at least one of them, has an unused amount.

(6) See section 290 for an explanation of when a taxed receipt has an "unused amount".

**Textual Amendments**

**F1** Word in s. 287(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 617(2)** (with Sch. 2 Pts. 1, 2)

**F2** Word in s. 287(4) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 617(3)(a), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F3** Words in s. 287(4)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 617(3)(b)** (with Sch. 2 Pts. 1, 2)

**F4** S. 287(4)(c)(d) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 617(3)(c)** (with Sch. 2 Pts. 1, 2)

**F5** Words in s. 287(4) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 617(3)(d)** (with Sch. 2 Pts. 1, 2)

## 288 The additional calculation rule

(1) The rule in this section applies if the conditions mentioned in section 287 are met.

(2) The additional calculation rule is that the amount given by the formula in section 277, 279, 280, 281 or 282 must be reduced by the amount calculated in accordance with this section in order to give the amount of the receipt under calculation.

(3) The amount of the reduction is—

(a) if there is one taxed receipt which has an unused amount, the basic relieving amount by reference to that receipt, and

(b) if there is more than one taxed receipt which has an unused amount, the total of the basic relieving amounts by reference to each receipt,

adjusted, if necessary, in the light of section 289(5) (reduction not to exceed amount being reduced).

(4) The basic relieving amount by reference to a taxed receipt is given by the formula—

$$\frac{A \times \text{LRP}}{\text{TRP}}$$

where—

A is the unreduced amount of the taxed receipt (which is, generally, the amount given by the formula in section 277, 279, 280, 281 or **[**[F6]282 above, or in section 217, 219, 220, 221 or 222 of CTA 2009,**]** but see section 290(2) to (4) **[**[F7]above**]**),

LRP is the receipt period of the receipt under calculation, and

TRP is the receipt period of the taxed receipt.

(5) But the basic relieving amount is different if section 289(2) or (4) applies (certain special cases).

(6) For the purposes of this Chapter, the "receipt period" of a receipt is—

(a) in the case of a receipt under section 277 or 280, the effective duration of the lease,

(b) in the case of a receipt under section 279, the period in relation to which the sum payable instead of rent is payable,

(c) in the case of a receipt under section 281, the period for which the variation or waiver has effect, [F8]...

(d) in the case of a receipt under section 282, the effective duration of the lease remaining at the date of the assignment**[**[F9], and

(e) in the case of a receipt under Chapter 4 of Part 4 of CTA 2009 (profits of property businesses: lease premiums etc), its receipt period within the meaning of that Chapter (see section 228(6) of that Act).**]**

**Textual Amendments**

**F6** Words in s. 288(4) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 618(2)(a)** (with Sch. 2 Pts. 1, 2)

**F7** Word in s. 288(4) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 618(2)(b)** (with Sch. 2 Pts. 1, 2)

**F8** Word in s. 288(6) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 618(3)(a), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F9** S. 288(6)(e) and word inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 618(3)(b)** (with Sch. 2 Pts. 1, 2)

## 289 The additional calculation rule: special cases

(1) This section explains how section 288 operates in some special cases.

(2) If—

(a) the receipt under calculation is under any of sections 277 to 281, and

(b) the lease does not extend to the whole of the premises subject to the taxed lease,

the basic relieving amount by reference to a taxed receipt is calculated by multiplying the amount given by the formula in subsection (4) of section 288 by the fraction of those premises which is subject to the lease.

***Changes to legislation:*** *There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Cross Heading: Additional calculation rule for reducing certain receipts. (See end of Document for details)*

(3) This fraction is calculated on a just and reasonable basis.

(4) If the basic relieving amount given by section 288(4) or subsection (2) above by reference to a taxed receipt would otherwise exceed the unused amount of the taxed receipt, the basic relieving amount is the unused amount.

(5) If the amount of the reduction under section 288 would otherwise exceed the amount given, in respect of the receipt under calculation, by the formula in section 277, 279, 280, 281 or 282, the amount of the reduction is equal to the amount given by the formula.

**290 Meaning of "unused amount" and "unreduced amount"**

(1) For the purposes of this Chapter, a taxed receipt has an "unused amount" if the unreduced amount exceeds the total of the reductions and deductions referred to in subsection (5).

(2) In this Chapter the "unreduced amount" of a taxed receipt is the amount given, in respect of the taxed receipt, by the **[**[F10]formula in—

(a) section 277, 279, 280, 281 or 282 above, or

(b) section 217, 219, 220, 221 or 222 of CTA 2009 (corporation tax provisions corresponding to those listed in paragraph (a)).**]**

**[**[F11](3) Subsection (4) applies—

(a) to a taxed receipt under section 277 (lease premiums) as a result of section 278 (amount treated as lease premium where work required), and

(b) to a taxed receipt under section 217 of CTA 2009 (lease premiums) as a result of section 218 of that Act (amount treated as lease premium where work required).**]**

(4) If the obligation to carry out work included the carrying out of work which gives, or will give, rise to qualifying expenditure under CAA 2001, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.

(5) The reductions and deductions mentioned in subsection (1) are—

(a) the reductions under section 288 **[**[F12]above or section 228 of CTA 2009 (the additional calculation rule)**]** by reference to the taxed receipt,

(b) the deductions allowed in calculating the profits of a trade, profession or vocation for expenses under section 61 **[**[F13]above or section 63 of CTA 2009**]** (tenant under taxed lease who uses land in connection with trade treated as incurring expenses) by reference to the taxed receipt, and

(c) the deductions allowed in calculating the profits of a property business for expenses under section 292 **[**[F14]below or section 232 of CTA 2009**]** (tenant under taxed lease who uses premises for purposes of property business treated as incurring expenses) by reference to the taxed receipt.

(6) For the purposes of this Chapter references to a reduction under section 288 **[**[F15]above or section 228 of CTA 2009**]** by reference to a taxed receipt are to a reduction under **[**[F16]the section concerned**]** so far as attributable to the taxed receipt.

## Textual Amendments

**F10** Words in s. 290(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 619(2)** (with Sch. 2 Pts. 1, 2)

**F11** S. 290(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 619(3)** (with Sch. 2 Pts. 1, 2)

**F12** Words in s. 290(5)(a) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 619(4)(a)** (with Sch. 2 Pts. 1, 2)

**F13** Words in s. 290(5)(b) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 619(4)(b)** (with Sch. 2 Pts. 1, 2)

**F14** Words in s. 290(5)(c) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 619(4)(c)** (with Sch. 2 Pts. 1, 2)

**F15** Words in s. 290(6) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 619(5)(a)** (with Sch. 2 Pts. 1, 2)

**F16** Words in s. 290(6) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 619(5)(b)** (with Sch. 2 Pts. 1, 2)

**Changes to legislation:**
There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Cross Heading: Additional calculation rule for reducing certain receipts.